

CALIFORNIA COMMERCIAL CANNABIS INDUSTRY

By

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GOOD MORNING!

OVERVIEW OF MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT (MAUCRSA)

Purpose: Establish a comprehensive system to control and regulate the cultivation, distribution, transportation, storage, manufacture, processing and sale of medicinal and adult-use cannabis and cannabis products. (B&P §2600 et seq.)

Goal: The goal of MAUCRSA is to ensure a comprehensive regulatory system that takes production and sales of cannabis away from an illegal market and stop diversion of cannabis from California into other states or countries.

Jurisdiction: MAUCRSA authorizes a person/entity to obtain a state license and relevant local authority to engage in commercial medicinal and/or adult-use cannabis activity in California.

BUREAU OF CANNABIS CONTROL (BCC)

- BCC is charged with the responsibility of licensing, regulation and enforcement of MAUCRSA.
- Business & Professions Code §2600 et seq.
 - Chapter 1: General Provisions that apply to all license types
 - Chapter 2: Distributors
 - Chapter 3: Retailers
 - Chapter 4: Microbusinesses
 - Chapter 5: Cannabis Events
 - Chapter 6: Testing Laboratories
 - Chapter 7: Enforcement Provisions

1. LOCAL AUTHORITY

- Find a City or County to engage in commercial cannabis activity.
- Review local ordinance to find out the land use and zoning requirements for commercial Cannabis activity within the particular city/county.
- Locate a property that meets the local zoning requirements.
- Local Authorization Required prior to applying for State Temporary or Annual license.
- There are approximately 144 cities /24 counties regulating commercial cannabis at the local level after passage of Prop 64.

OPPORTUNITY FOR INCREASED PARTICIPATION AT THE LOCAL LEVEL

MAUCRSA allows for cities/counties to opt-in or opt-out of allowing commercial cannabis activity within their respective borders.

1. “fewer than one in three California cities (144 out of 482) allow any kind of cannabis business to operate in their borders. And just 18 of the state’s 58 counties permit cannabis businesses in their unincorporated areas.” (“Marijuana laws for every City and County? Our database shows California slow to accept Prop. 64,” OC Register, April 9, 2018).

2. Opt-in/Opt-out makes sense!

EMERGING TRENDS AT THE LOCAL LEVEL

A. Social Equity Programs

1. Minority Cannabis Business Association (MCBA) has drafted a model ordinance for cities/counties that are considering the adoption of ordinances that license and regulate cannabis businesses.

2. Why Social Equity?

- Communities that were most harmed by cannabis prohibition are benefitting the least from the legal cannabis industry.
- Legacy of racial and ethnic injustices, compounded by the disproportionate collateral consequences of 80 years of cannabis prohibition enforcement, limits participation in the industry.
- Less than 1% of the cannabis industry is owned or operated by people of color.
- Tax revenue generated from adult-use sales of cannabis could be used to reinvest in communities most harmed by cannabis prohibition, including efforts to create access to capital, job training programs and assistance to expunge criminal convictions.

SOCIAL EQUITY PROGRAMS

Eligibility:

1. “**Low Income**” means an individual who currently resides in a household with an income that is less than 8% of the current fiscal year median family income for the county of residence, as determined by the US Dept. of Housing and Urban Development.
2. “**Member of an Impacted Family**” means an individual who, in a previous tax year, had a parent, sibling, child, spouse or dependent, or was a dependent of an individual who, prior to the January 2018, was arrested for, convicted of, or adjudged to be a ward of the juvenile court for any non-violent crime under the laws of the State of California relating to the sale, possession, use, cultivation, manufacture, or transport of cannabis.
3. “**Resident of a Disproportionately Impacted Area**” means an individual who, prior to January 2018, lived for a minimum of [Insert length of residency requirement] consecutive or [Insert length of residency requirement] non-consecutive year(s) in a geographic area that experienced a disproportionately high number of cannabis arrests relative to population, during the individual’s residency in such geographic area.

ELIGIBILITY: CONTINUED

4. “**Prior Cannabis Record**” means that an individual was arrested for, convicted of, or adjudged to be a ward of the juvenile court for any non-violent crime under California law relating to the sale, possession, use, cultivation, manufacture, or transport of cannabis.

LOS ANGELES Qualifications

Tier 1: Candidate is considered “low income” – which means 80% or below of Area Median Income for the City based on the 2016 American Community Survey – AND a prior California cannabis conviction, defined as (a) a cannabis conviction prior to November 2016 (date Prop 64 was enacted) that would now be prosecuted as a misdemeanor or citation OR (b) 5 years cumulative residency in qualifying zip codes. Tier 1 applicants must own 51% or more equity in the licensed business.

Tier 2: Candidate is considered “low income: with five years cumulative residency in a qualifying zip code; or a minimum of 10yrs cumulative residency in a Disproportionately Impacted Area. Tier 2 applicant must own 33 1/3% or more equity in a licensed business.

Tier 3: Candidate is a landowner entering into a Social Equity Agreement with the city to provide capital and/or leased space, as well as business, licensing and compliance assistance to Tier 1 and Tier2 applicants.

SOCIAL EQUITY PROGRAM BENEFITS

1. Priority Processing
2. Expedited Annual Permit Renewal processing
3. Waived or reduced Application and initial permitting fees
4. Low Interest or No Interest business loans awarded by the City/County
5. Municipal Grants for start up costs
6. Business, licensing and operational compliance assistance and training provided by the City/County

EMERGING TRENDS AT LOCAL LEVEL

B. Retail – Consumption Lounges

- As more cities/counties are opting-in and regulating commercial cannabis activity, California is seeing an increase in cannabis tourism.
- Consumption of cannabis in public is not legal in California, and many hotels and Air B&B's do not allow smoking or “drug use” in their guest rooms.
- MAUCRSA allows local jurisdictions to authorize the on-site consumption of cannabis by state licensed retailers and/or microbusinesses. This allows tourists a safe place to consume cannabis.
- Limitations:
 - 1) Access to area restricted to persons 21 years of age and older
 - 2) cannabis consumption is not visible from any public place or non-age restricted area, and
 - 3) the sale or consumption of alcohol or tobacco is not allowed on the premises.

CONSUMPTION LOUNGES

Cities capitalizing on cannabis tourism potential:

1. City of West Hollywood is the only city in the LA area that currently allows for on-site consumption. The city plans to permit eight (8) on-site consumption businesses for smoking, vaping and ingesting cannabis and cannabis products. LA – which is known for tourism – will see significant cannabis tourism go to the City of West Hollywood.
2. San Francisco is fully embracing the cannabis lounge business model. San Francisco permits retailers and microbusinesses to allow customers to consume on-site.
3. City of Oakland allows retailers to obtain a secondary permit in order for cannabis to be consumed on the premises of the dispensary.
4. Palm Springs allows for cannabis consumer lounges. This will likely result in a high demand for cannabis and cannabis products from tourists looking to consume during festivals.

REDUCTION IN LOCAL TAXES ON CANNABUSINESSES

Goal: The goal of MAUCRSA is to ensure a comprehensive regulatory system that takes production and sales of cannabis away from an illegal market and stop diversion of cannabis from California into other states or countries.

- Local tax schemes that seek to charge cannabis business 5 – 10% of gross revenues reduce ability of businesses to compete against with the illegal market.

- Tax structure between 1 – 4% of net revenue supports stated goals of new regulatory structure.

- New Industry – give the businesses a chance to compete!

FEDERAL QUESTION

COMPLIANCE WITH STATE/LOCAL LAW IS NOT A DEFENSE TO A VIOLATION OF FEDERAL LAW.

Currently 60 bills pending in House & Senate that concern ending cannabis prohibition.

1. S. 3174: The Marijuana Freedom and Opportunity Act

Purpose: To take cannabis off of the Controlled Substances Act entirely, provide resources to facilitate expungements of local cannabis convictions, and implement mechanisms to entrepreneurship and small businesses in the emerging cannabis industry.

Lead Sponsor: Senator Chuck Schumer [D-NY]

2. S. 1689/HR 4815: The Marijuana Justice Act

Purpose: To take cannabis off of the Controlled Substances Act, expunge federal cannabis convictions, and implement mechanisms to end racial disparity in cannabis convictions, among other purposes.

Lead Sponsors: Senator Cory Booker [D-NJ] and Rep. Barbara Lee [D-CA]. Currently 40 cosponsors. This bill has the leading number of cosponsors on a de-scheduling bill in the House of Representatives

FEDERAL BILLS: CONTINUED

3. HR 1227: The Ending Federal Marijuana Prohibition Act

Purpose: To take cannabis off of the Controlled Substances Act and allow states to regulate as they see fit, free from federal interference.

Lead Sponsors: Rep. Thomas Garrett [R-VA] and Rep. Tulsi Gabbard [D-HI]. Total of 39 cosponsors (7 R/ 33 D).

4. HR 6043/ S. 3032: The STATES Act

Purpose: To remove the threat of federal intervention and prosecution in states that regulate cannabis use and sales.

Lead Sponsor: Senator Elizabeth Warren [D-MA]

5. S. 3409: Veterans Medical Marijuana Safe Harbor Act

Purpose: To both expand access by allowing VA healthcare providers to fill out paperwork for medical cannabis recommendations in the state legal markets and provide funding for research.

Lead Sponsor: Senator Bill Nelson [D-FL]

6. S. 2667: Hemp Farming Act of 2018

Purpose: To amend the Agricultural Marketing Act of 1946 to provide for the state and tribal regulation of hemp production.

Lead Sponsor: Senator Mitch McConnell [R-KY]. There are currently 20 cosponsors of this bill (17 D/ 10 R/ 2 I).

Hemp is Cannabis Sativa L with less than 0.3% THC.

IN SUMMARY

- Cannabis is here to stay!

New Gallup Poll Finds 66% of Americans want Cannabis legal.

- Safe Access for Medicinal and Adult-Use Consumption
- Reach out to cannabis reform organizations like NORML, MCBA and Drug Policy Alliance for the latest news and information on reform laws



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